



WP(MD)No.12931 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 06.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.12931 of 2020

and

WMP(MD)Nos.10918 to 10920 of 2020

Tamil Nadu Harijan Sevak Sangh,
Rep. by its Secretary
R.Sreenivasan

.. Petitioner

v.

- 1.The District Collector,
Dindigul,
Dindigul District.
- 2.The Revenue Divisional Officer,
O/o.Revenue Divisional Officer,
Palani, Dindigul District.
- 3.The Tahsildar,
Palani Taluk,
Dindigul District.
- 4.The Palani Municipality,
Rep. by its Commissioner,
O/o.the Commissioner,
Palani,
Dindigul District.



WP(MD)No.12931 of 2020

5.Arulmigu Dhandayuthapani Swami Temple,
Rep. by its Joint Commissioner / Executive Officer,
Arulmigu Dhandayuthapani Swami Temple,
Palani, Dindigul District.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned order in Na.Ka.No.5545/15/C1 dated 21.09.2020 on the file of the fifth respondent, quash the same and consequently, forbear the respondents from evicting the petitioner from his building in S.No.861/2 Palani, Palani Taluk, Dindigul District, without following due process of law.

For Petitioner : Mr.S.Rajasekar

For Respondents : Mr.P.Subburaj,
Special Government Pleader
for R.1 to R.3

No appearance for R.4

Mr.R.Murali for R.5



WP(MD)No.12931 of 2020

ORDER

WEB COPY

The Secretary, Tamil Nadu Harijan Sevak Sangh, has filed this writ petition challenging the notice issued by the fifth respondent dated 21.09.2020, in and by which, the Joint Commissioner of Arulmigu Dhandayuthapani Swami Temple has called upon the petitioner to remove the encroachments to the extent of 350 sq.meter in S.No.861/2, Block No.19, Ward No.3, Palani Town, within a period of seven days, failing which, the encroachments would be removed by the Temple Administration.

2.Learned Counsel for the petitioner submitted that the Tamil Nadu Harijan Sevak Sangh is a non-profit organisation founded by Mahatma Gandhi in the year 1932 to eradicate untouchability in India. The Harijan Sevak Sangh is running several residential schools and boarding schools for the upliftment of the members of oppressed class. In the year 1940, the Executive Officer of Arulmigu Dhandayuthapani Swami Temple has gifted a land in S.No.847/1 to an extent of 33.5 cents for the purpose of constructing a choultry for accommodating the harijan



WP(MD)No.12931 of 2020

pilgrims visiting Arulmigu Dhandayuthapani Swami Temple. The Endowment Board has also approved the same by its order in No.1706 dated 30.03.1940 u/s.76(1) of the Madras Religious Endowments Act.

3.He further submitted that the lands in S.No.861/2 to an extent of 4677 sq.ft is a Government Poromboke land, adjacent to their land in S.No.847/1 and it is also under the occupation of the Harijan Sevak Sangh from the year 1940. The President of the Sangh has also made a representation to regularize their occupation in S.No.861/2. While so, the Joint Commissioner of Arulmigu Dhandayuthapani Swami Temple, without any authority and without any jurisdiction, by his proceedings dated 21.09.2020 has called upon the petitioner to vacate the premises. Section 78 of the Hindu Religious and Charitable Endowments Act entitles the Joint Commissioner to remove the encroachments, if any, on the temple properties and not on Government lands. Therefore, he prayed for appropriate orders.



WP(MD)No.12931 of 2020

WEB COPY

4.Learned Counsel for the fifth respondent submitted that the impugned notice has been passed based on the directions of this Court in a public interest litigation in WP(MD)No.23598 of 2017 directing the authorities to maintain the Giri Veedhi without any encroachments. The land in S.No.861/2 is in the Giri Veedhi and the petitioner's Sangh has encroached the same by putting up a tin-sheet. Therefore, the impugned notice has been issued.

5.This Court paid it's anxious consideration to the rival submissions and also to the materials placed on record.

6.The petitioner Sangh admits that they have encroached the land in S.No.861/2. Their case is that the land in S.No.861/2 is a Government Poromboke land and they are in occupation for a long time. They have also made a representation for regularizing the land in favour of the Sangh.



WP(MD)No.12931 of 2020

7.The issue which is to be decided in this writ petition is whether the Joint Commissioner is competent to issue the impugned notice to evict the petitioner from a Government Land. Admittedly, the land in S.No.861/2 is not a Temple land and it is a Government Poromboke land. However, it comes under the Giri Veedhi. A public interest litigation was filed in WP(MD)No.23598 of 2017 for a mandamus for removal of encroachments made in the land situated around Arulmigu Dhandayuthapani Swami Temple, Palani, as per the proceedings of the District Collector dated 17.06.2013 and for a direction to the Joint Commissioner / Executive Officer of Arulmigu Dhandayuthapani Swami Temple to comply with the conditions in G.O.Ms.No.1258, Local Administration Department dated 13.03.1948 and G.O.Ms.No.3324, dated 31.08.1974. This Court has disposed the said writ petition as follows:-

“3.There are two aspects which are raised by the petitioner in this writ petition.

4.The first aspect is regarding the encroachers in 'Giri veedhi', which entire stretch vest with the ninth respondent. Sofar as the encroachers are concerned, the Superintendent of the ninth



respondent, who is present in person before this Court, has submitted that all the encroachments in 'Giri veedhi' have been cleared and C.C.Tv cameras have been installed around 'Giri veedhi' to monitor and prevent the encroachers from being made in 'Giri veedhi'.

5. Apart from that, the Division Bench of this Court in W.P(MD)Nos.1341 of 2017 and 191 of 2016, dated 16.08.2017, at the instance of the Temple, has passed a prohibitory order restraining all the respondents therein from issuing licence/identity cards for street vending in respect of 'Giri veethi' at Palani. The order, dated 16.08.2017 reads as follows:-

“Both these writ petitions pertain to the mountain paths of Giriveethi at Palani Hills.

2.W.P.(MD).No.196 of 2016 has been filed in Public Interest, seeking removal of the encroachments and for prohibition of commercial activities in the Giriveethi. The land around the temple on the foot hills are known as mountain path and a girivalam that is circumambulate around the hill is an important spiritual activity.

3. It is the case of the writ petitioners that the said mountain path was handed over in favour of the Devasthanam on condition that no commercial activity would be permitted. It is not open to the Devasthanam or the Palani Municipality to grant permission in favour of any person for conducting commercial activities. The writ petitioners grievance is that



the Devasthanam is granting licences for carrying on such commercial activities in the mountain paths.

4.The learned Senior Counsel appearing for the second respondent firmly denied the said allegations. He submitted that W.P.(MD)No.1341 of 2017, was filed by the Devasthanam for forbearing the District Administration as well as the Local Municipality from issuing any license / Identity Cards for street vendors so as to enable them to vend or carry on business in Giriveethi. When this Court in W.P. (MD).Nos. 17889, 18047 to 18049 and 19392 to 19394 of 2013, dated 10.02.2014 prohibited commercial activity in the mountain path, it is not open to any authority be it a Devasthanam or the Government or the District Administration or the local body to grant permission for carrying any commercial activity in the Giriveethi.

5. The learned Counsel appearing for the Devasthanam strenuously submitted that whatever commercial activity is licensed by Devasthanam is only in respect of its patta lands and not in the Giri Veethi. This submission is placed on record. This Court specifically restrain the respondents in W.P.(MD)No.1341 of 2017 from issuing license / Identity Cards for street vendors in respect of the Giriveethi at Palani. Since object of both the writ petitioner appears to be one and the same, this Court has no hesitation in allowing both the



writ petitions. No costs. Consequently, connected miscellaneous petition is closed."

6.The above said order has been referred by us while rejecting two impleading petitions filed by the parties in W.M.P(MD)Nos. 1589 and 2957 of 2018. Therefore, the authorities of the Temple shall ensure that 'Giri veedhi' is free from any encroachment. Whenever there is a requisition made to the District Collector, Dindigul or to the Superintendent of Police or to the Executive Engineer or to any other Governmental authority for any assistance by the Joint Commissioner/Executive Officer-ninth respondent, the same shall be extended without any reservation for ensuring that 'Giri veedhi' is free from encroachment.

7.The second aspect is that the encroachers, who are in and around the Temple in various locations. In this regard, the petitioner refers a minutes of a joint meeting conducted on 07.02.2018 at about 05.30 pm. The minutes show that action is being initiated by the Municipality, however, we express that continuous action is required to be taken by the Municipality in association with the revenue department wherever required.

8.Therefore, we direct the respondents 6 to 8 as well as the respondents 11 and 12 to take appropriate action and wherever it is found that there is an encroachment in Government land, Panchayat land, Corporation Land etc., proceed to take expeditious action in that regard."



WP(MD)No.12931 of 2020

WEB COPY

8.The Division Bench, in the said order, has stated that the Temple Authorities shall ensure that the Giri Veedhi is free from any encroachments. However, direction was issued only to the revenue authorities to remove the encroachments. The Division Bench has also issued a direction to the District Collector, Superintendent of Police, Executive Engineer and other Governmental Authorities for providing necessary assistance to the Joint Commissioner / Executive Officer of Arulmigu Dhandayuthapani Swami Temple for ensuring that the Giri Veedhi is free from encroachments.

9.Since the issue has already been decided by the Division Bench, this Court is not inclined to interfere in this writ petition. However, the Joint Commissioner is not competent to issue a notice for eviction on a Government Poromboke land and that the Tahsildar alone is the competent authority to take action in this regard under the Land Encroachments Act. Therefore, on this ground, the impugned notice dated 21.09.2020 is set aside. The fifth respondent / Joint Commissioner



WP(MD)No.12931 of 2020

is directed to address a letter to the third respondent / Tahsildar for initiating action as against the encroachments under the Land Encroachment Act, as directed by this Court in WP(MD)No.23598 of 2017, without any further delay.

10.From the impugned notice, it appears that the Tahsildar and the Surveyors have already identified the encroachments and have submitted a report. Since the encroachments have already been identified, the revenue officials along with the Municipality ought to have taken action as per the directions of this Court in WP(MD)No.23598 of 2017, dated 26.03.2018. However, they have failed to take action, which necessiated the Joint Commissioner to take the further action. Be that as it may, in view of the passage of time, the Tahsildar / third respondent shall once again identify the extent of encroachments, issue notice to the encroachers under the Land Encroachment Act and take appropriate action. Such exercise shall be completed within a period of four months from the date of receipt of a copy of this order. The fifth respondent / Joint Commissioner shall also follow-up the course of



WP(MD)No.12931 of 2020

action, as directed by this Court, to ensure that the Giri Veedhi is without any encroachments.

There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
NCC : Yes / No
Internet : Yes
gk

06.10.2023

To

- 1.The District Collector,
Dindigul,
Dindigul District.
- 2.The Revenue Divisional Officer,
O/o.Revenue Divisional Officer,
Palani, Dindigul District.
- 3.The Tahsildar,
Palani Taluk,
Dindigul District.
- 4.The Commissioner,
Palani Municipality,
Palani,
Dindigul District.



WEB COPY



WP(MD)No.12931 of 2020

B.PUGALENDHI, J.

gk

WP(MD)No.12931 of 2020

06.10.2023